

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-483903  
AND ALL OTHER SEAMAN'S DOCUMENTS  
Issued to: Alan L. GODFREY

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1614

Alan L. GODFREY

This appeal has been taken in accordance with Title 46 United States Code 239 (g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 18 July 1966, an Examiner of the United States Coast Guard at New York, New York, suspended Appellant's seaman's documents for two months upon finding him guilty of misconduct. The specifications found proved allege that while serving as a boatswain on board the United States SS MORMACLYNX under authority of the document above described, on or about 16 May 1966, Appellant, while the vessel was at sea, wrongfully used profane and abusive language to the Chief Mate and wrongfully failed to obey a lawful order of that mate.

At the hearing, Appellant was represented by professional counsel. Appellant entered a plea of not guilty to the charge and each specification.

The Investigating Officer introduced in evidence pertinent documents and the testimony of the Chief Mate.

In defense, Appellant took the stand and testified on his own behalf.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and both specifications had been proved. The Examiner then entered an order suspending all documents issued to Appellant for a period of two months.

The entire decision was served on 19 July 1966. Appeal was timely filed on 27 July 1966.

FINDINGS OF FACT

On 16 May 1966, Appellant was serving as a boatswain on board the United States SS MORMACLYNX and acting under authority of his

document while the ship was at sea.

At about 0900 on 16 May 1966 the Chief Officer, Geradus J. Van Haasteren, approached Appellant and inquired why he had not properly secured the center section of #3 hatch upon sailing from New York. Appellant responded to this question with a spate of foul and abusive language, calling the Chief Officer a m---f---. After this outburst Appellant was ordered by the Chief Officer to accompany him to the Master's office. Appellant refused to do this, replying "F--you and the Captain."

#### BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is urged that the punishment is excessive under the circumstances of this case.

APPEARANCE:       Zwerling and Zwerling of New York City, by Irving Zwerling, Esquire, of counsel.

#### OPINION

Since Appellant denied both that he uttered foul words to the Chief Officer and that the latter had given him an order, as allege, the question for the hearing examiner was solely one of credibility. The examiner chose to believe the Chief Officer. Because this determination was based on his observation of the witnesses, there is no reason to disturb it. This testimony constitutes substantial evidence proving the misconduct alleged.

Appellant urges that his punishment be reduced citing his prior clean record. In light of the circumstances of these offenses, which clearly indicate a distinct disrespect for lawful shipboard authority, the punishment of two months' suspension is not deemed excessive.

#### ORDER

The order of the Examiner dated at New York City, New York, on 18 July 1966, is AFFIRMED.

P.E. TRIMBLE  
Vice Admiral, U. S. Coast Guard  
Acting Commandant

Signed at Washington, D. C., this 12th day of May 1967.

## INDEX

Order of examiner

Held not excessive

Revocation or suspension

Held not excessive

Testimony

Conflicting, to be weighed by examiner

Witnesses

Credibility, judged by examiner